

order or notice and close the intergovernmental IV-D case, unless the two States reach an alternative agreement on how to proceed; and

(10) Notify the initiating agency when a case is closed pursuant to §§ 303.11(b)(12) through (14) and 303.7(d)(9) of this part.

(e) *Payment and recovery of costs in intergovernmental IV-D cases.*

(1) The responding IV-D agency must pay the costs it incurs in processing intergovernmental IV-D cases, including the costs of genetic testing. If paternity is established, the responding agency, at its election, may seek a judgment for the costs of testing from the alleged father who denied paternity.

(2) Each State IV-D agency may recover its costs of providing services in intergovernmental non-IV-A cases in accordance with § 302.33(d) of this chapter, except that a IV-D agency may not recover costs from an FRC or from a foreign obligee in that FRC, when providing services under sections 454(32) and 459A of the Act.

[75 FR 38642, July 2, 2010]

### § 303.8 Review and adjustment of child support orders.

(a) *Definition.* For purposes of this section, *Parent* includes any custodial parent or noncustodial parent (or for purposes of requesting a review, any other person or entity who may have standing to request an adjustment to the child support order).

(b) *Required procedures.* Pursuant to section 466(a)(10) of the Act, when providing services under this chapter:

(1) The State must have procedures under which, within 36 months after establishment of the order or the most recent review of the order (or such shorter cycle as the State may determine), if there is an assignment under part A, or upon the request of either parent, the State shall, with respect to a support order being enforced under title IV-D of the Act, taking into account the best interests of the child involved:

(i) Review and, if appropriate, adjust the order in accordance with the State's guidelines established pursuant to section 467(a) of the Act if the amount of the child support award

under the order differs from the amount that would be awarded in accordance with the guidelines;

(ii) Apply a cost-of-living adjustment to the order in accordance with a formula developed by the State; or

(iii) Use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under any threshold that may be established by the State.

(2) If the State elects to conduct the review under paragraph (b)(1)(ii) or (iii) of this section, the State must have procedures which permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a) of the Act.

(3) If the State conducts a guideline review under paragraph (b)(1)(i) of this section:

(i) *Review* means an objective evaluation, conducted through a proceeding before a court, quasi-judicial process, or administrative body or agency, of information necessary for application of the State's guidelines for support to determine:

(A) The appropriate support award amount; and

(B) The need to provide for the child's health care needs in the order through health insurance coverage or other means.

(ii) *Adjustment* applies only to the child support provisions of the order, and means:

(A) An upward or downward change in the amount of child support based upon an application of State guidelines for setting and adjusting child support awards; and/or

(B) Provision for the child's health care needs, through health insurance coverage or other means.

(4) The State must have procedures which provide that any adjustment under paragraph (b)(1)(i) of this section shall be made without a requirement for proof or showing of a change in circumstances.

## § 303.10

(5) The State must have procedures under which, in the case of a request for a review, and if appropriate, an adjustment outside the 3-year cycle (or such shorter cycle as the State may determine) under paragraph (b)(1) of this section, the State shall review and, if the requesting party demonstrates a substantial change in circumstances, adjust the order in accordance with the guidelines established pursuant to section 467(a) of the Act.

(6) The State must provide notice not less than once every 3 years to the parents subject to the order informing the parents of their right to request the State to review and, if appropriate, adjust the order consistent with this section. The notice must specify the place and manner in which the request should be made. The initial notice may be included in the order.

(c) Standard for adequate grounds. The State may establish a reasonable quantitative standard based upon either a fixed dollar amount or percentage, or both, as a basis for determining whether an inconsistency between the existent child support award amount and the amount of support determined as a result of a review is adequate grounds for petitioning for adjustment of the order.

(d) Health care needs must be adequate basis. The need to provide for the child's health care needs in the order, through health insurance or other means, must be an adequate basis under State law to initiate an adjustment of an order, regardless of whether an adjustment in the amount of child support is necessary. In no event shall the eligibility for or receipt of Medicaid be considered to meet the need to provide for the child's health care needs in the order.

(e) Timeframes for review and adjustment. Within 180 calendar days of receiving a request for a review or locating the non-requesting parent, whichever occurs later, a State must: Conduct a review of the order and adjust the order or determine that the order should not be adjusted, in accordance with this section.

(f) Interstate review and adjustment. (1) In interstate cases, the State with legal authority to adjust the order

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must conduct the review and adjust the order pursuant to this section.

(2) The applicable laws and procedures for review and adjustment of child support orders, including the State guidelines for setting child support awards, established in accordance with §302.56 of this chapter, are those of the State in which the review and adjustment, or determination that there be no adjustment, takes place.

[68 FR 25303, May 12, 2003, as amended at 69 FR 77661, Dec. 28, 2004; 73 FR 74920, Dec. 9, 2008]

## § 303.10 [Reserved]

## § 303.11 Case closure criteria.

(a) The IV-D agency shall establish a system for case closure.

(b) In order to be eligible for closure, the case must meet at least one of the following criteria:

(1) There is no longer a current support order and arrearages are under \$500 or unenforceable under State law;

(2) The noncustodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken;

(3) Paternity cannot be established because:

(i) The child is at least 18 years old and action to establish paternity is barred by a statute of limitations which meets the requirements of §302.70(a)(5) of this chapter;

(ii) A genetic test or a court or administrative process has excluded the putative father and no other putative father can be identified; or

(iii) In accordance with §303.5(b) of this part, the IV-D agency has determined that it would not be in the best interests of the child to establish paternity in a case involving incest or forcible rape, or in any case where legal proceedings for adoption are pending;

(iv) The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the IV-D agency with the recipient of services;

(4) The noncustodial parent's location is unknown, and the State has made diligent efforts using multiple sources, in accordance with §303.3, all